



## OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN  
ATTORNEY GENERALHonorable John R. Shook  
Criminal District Attorney  
San Antonio, Texas

Dear Sir:

Attention of Mr. T. H. Ridgeway

Opinion No. O-2097-A

Re: Liability of Assessor-Collector  
for costs in mandamus proceeding  
brought against him.

We have carefully considered the additional facts presented in your letter of July 20, 1940, requesting a reconsideration of Opinion No. O-2097, but we are compelled to the conclusion that Opinion No. O-2097 correctly states the law upon the issues involved.

Consequently, it is still the opinion of this department that when judgment is had against a county officer in a mandamus proceeding brought against him to compel the performance of a ministerial duty, the defendant being joined in his individual and official capacity, and judgment is for relator and costs are assessed against the respondent, the respondent is individually and personally responsible for the costs.

It is the further opinion of this department that a mandamus proceeding brought against a county tax assessor-collector to compel him to perform the ministerial duty of accepting a tender of taxes and the issuance of a receipt therefor may not be classed as a "suit against the county" (the county not being joined in its corporate name as a party defendant) so as to relieve the defendant of the payment of the costs of suit.

Very truly yours

APPROVED AUG 9, 1940

ATTORNEY GENERAL OF TEXAS

FELIX A. MANN  
ATTORNEY GENERAL

By

James D. Smullen  
Assistant

JDS:AME